

JEFFERSON COUNTY ZONING BOARD OF ADJUSTMENT

Janet Sayre Hoeft, Chair; Dale Weis, Vice-Chair; Don Carroll, Secretary; Paul Hynek, First Alternate; Randy Mitchell, Second Alternate

PUBLIC HEARING BEGINS AT **1:00 P.M.** ON JULY 12, 2012, ROOM 205, JEFFERSON COUNTY COURTHOUSE

CALL TO ORDER FOR BOARD MEMBERS IS AT 9:45 A.M. IN COURTHOUSE ROOM 203, PRIOR TO THE HEARING

SITE INSPECTION FOR BOARD MEMBERS LEAVES AT 10:00 A.M. FROM COURTHOUSE ROOM 203, PRIOR TO THE HEARING

1. Call to Order-Room 203 at 9:45 a.m.

Meeting called to order @ 9:45 by Hoeft

2. Roll Call

Members present: Hoeft, Carroll, Weis

Members absent: --

Staff: Michelle Staff, Laurie Miller

3. Certification of Compliance with Open Meetings Law Requirements

Hoeft acknowledged publication. Staff also presented proof of publication.

4. Election of Officers

Hoeft made motion, seconded by Weis, motion carried 3-0 to elect Carroll as chair.

Hoeft made motion, seconded by Carroll, motion carried 3-0 to elect Weis as vice-chair.

Carroll made motion, seconded by Weis, motion carried 3-0 to elect Hoeft as secretary.

4. Review of Agenda

Carroll made motion, seconded by Hoeft, motion carried 3-0 to approve the review of the agenda.

Note was made that there were two separate typos on the two of the petition numbers

5. Approval of May 10, 2012 Meeting Minutes

Hoeft made motion, seconded by Weis, motion carried 3-0 to approve the May 10, 2012 meeting minutes.

The Board requested that the following be added to the hearing notice and minutes: Recording of the proceedings available upon request.

6. Communications - None

7. Site Inspections – Beginning at 10:00 a.m. and Leaving from Room 203

8. Public Hearing – Beginning at 1:00 p.m. in Room 205

Meeting called to order by Carroll @ 1:00 p.m.

Members present: Hoeft, Carroll, Weis

Members absent: ---

Staff: Michelle Staff, Laurie Miller

The following was read into the record by Hoeft:

***NOTICE OF PUBLIC HEARING
JEFFERSON COUNTY ZONING BOARD OF ADJUSTMENT***

NOTICE IS HEREBY GIVEN that the Jefferson County Zoning Board of Adjustment will conduct a public hearing at 1:00 p.m. on Thursday, July 12, 2012 in Room 205 of the Jefferson County Courthouse, Jefferson, Wisconsin. Matters to be heard are applications for variance from terms of the Jefferson County Zoning Ordinance. No variance may be granted which would have the effect of allowing in any district a use not permitted in that district. No variance may be granted which would have the effect of allowing a use of land or property which would violate state laws or administrative rules. Subject to the above limitations, variances may be granted where strict enforcement of the terms of the ordinance results in an unnecessary hardship and where a variance in the standards will allow the spirit of the

ordinance to be observed, substantial justice to be accomplished and the public interest not violated. Based upon the findings of fact, the Board of Adjustment must conclude that: 1) Unnecessary hardship is present in that a literal enforcement of the terms of the ordinance would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome; 2) The hardship is due to unique physical limitations of the property rather than circumstances of the applicant; 3) The variance will not be contrary to the public interest as expressed by the purpose and intent of the zoning ordinance. **PETITIONERS, OR THEIR REPRESENTATIVES, SHALL BE PRESENT.** There may be site inspections prior to public hearing which any interested parties may attend; decisions shall be rendered after public hearing on the following:

V1388-12 – Kenneth W Pundsack/Jankay Pundsack & Rory Beebe Property: Variance from Section 11.04(f)2 of the Jefferson County Zoning Ordinance to allow an addition to an attached garage at less than the required 15-foot setback to a side property line. The site is on PIN 016-0514-0832-005 (0.53 Acres) at **W6871 Hartwig Lane**, Town of Koshkonong in a Residential R-2 zone.

Kenneth Pundsack presented his petition. He stated he wanted to add another stall to the existing attached garage. Jon Bound, contractor also presented information and answered questions on this petition.

There were no questions or comments in favor or opposition of this petition. There was a response in the file from the town approving this petition. Staff report was given by Staff.

Carroll confirmed the dimensions of the addition and questioned the setbacks. Weis questioned the dimensions in relation to the setbacks. There was a discussion on the setbacks and lot lines. Weis questioned if the owner or builder would consent to having a survey done, and whether the setback included the overhang. There was additional discussion on setbacks and the location of the lot line. Weis questioned staff on what the setbacks would be if the structure were to be detached. Carroll commented on the unknown setbacks and lot lines, and questioned tabling the petition for a survey. Hoeft commented on the setbacks. Weis questioned the request as printed in the notice.

W1389-12 – Laura & Roger Zimmerman: Variance from Sec. 11.04(f)8 to modify the maximum number of lots allowed in an A-3 zone near **N9579 Englehart Road**. The subject is on PIN 020-0814-0513-000 (48.937 Acres) in the Town of Milford. Roger Zimmerman presented the Board with a map showing the farm tract of the property and explained his petition.

There were no questions or comments in favor of the petition. Trevor Price stated he had questions, and commented on the petition. Staff gave staff report, and gave history of previous splits and requests.

There was a response from the town in the file read by Carroll. Zimmerman presented the Board with documentation from the town regarding the requested split of land which was also in the file and read by Carroll. There was a discussion on that decision, and whether or not it was for the split request, or if it included the variance request.

Carroll questioned the A-3 lot with the silo pit. Staff explained. Hoeft questioned if there were any changes since the petitioner signed the affidavit that there were no other lots available. Hoeft also questioned staff if an addition was allowed to the existing home.

W1390-12 – Nathan Uttech: Variance from Sec. 11.07(d) to allow a recently constructed woodshed to remain at less than the required setback to the centerline and right-of-way of the road. The site is at **W8491 Stoney Brook Road** in the Town of Waterloo, on PIN 030-0813-2723-001 (10 Acres) in an A-1 Agricultural zone.

Nathan Uttech presented the Board with a photo map and site plan, and explained his petition.

There were no questions or comments in favor or opposition of the petition. There was a response in the file from the town opposing the petition, which was read into the record by Carroll. Staff gave staff report.

Carroll questioned how close this was to the septic tanks. Weis commented on the three criteria for variance and asked the petitioner to address all three. Carroll questioned the setback from the building to the septic. Hoeft questioned the visibility to the town rd.

9. Decisions on Above Petitions (See files)

10. Adjourn

Weis made motion, seconded by Hoeft, motion carried 3-0 to adjourn @ 2:32 p.m.

If you have questions regarding these matters, please contact the Zoning Department at 920-674-7113 or 920-674-8638.

The Board may discuss and/or take action on any item specifically listed on the agenda.

JEFFERSON COUNTY ZONING BOARD OF ADJUSTMENT

Individuals requiring special accommodations for attendance at the meeting should contact the County Administrator at 920-674-7101 at least 24 hours prior to the meeting so appropriate arrangements can be made.

Recording of the proceedings available upon request.

**DECISION OF THE ZONING BOARD OF ADJUSTMENT
JEFFERSON COUNTY, WISCONSIN**

FINDINGS OF FACT

PETITION NO.: 2012 V1388

HEARING DATE: ~~06-14-2012~~ 7-12-2012 CORRECTED 8-09-12

APPLICANT: Kenneth W. Pundsack

PROPERTY OWNER: Jankay Pundsack & Rory M. Beebe

PARCEL (PIN #): 016-0514-0832-005

TOWNSHIP: Koshkonong

INTENT OF PETITIONER: Proposing a 14' x 24' (336 sq. ft.) attached garage to the existing residence that is 10 feet from lot line.

THE APPLICANT REQUESTS A VARIANCE FROM SECTION 11.04(f)2 OF THE JEFFERSON COUNTY ZONING ORDINANCE.

THE FEATURES OF THE PROPOSED CONSTRUCTION AND PROPERTY WHICH RELATE TO THE GRANT OR DENIAL OF THE VARIANCE APPLICATION ARE:

The petitioner is proposing a 14' x 24' (336 sq. ft.) garage attached to the existing residence at a setback of 10 feet whereas the required setback is 15 feet. The property is triangle in shape and is .53 acres. The house is currently 24 feet from lot line and the new addition is proposed at 10 feet. The GIS is just a tool, but map shows the structure on lot line. Have the owner verified lot lines of the property?

FACTS OR OBSERVATIONS BASED ON SITE INSPECTIONS: Site inspections conducted. Observed property layout & location.

FACTS PRESENTED AT PUBLIC HEARING: See tape, minutes & file.

DECISION STANDARDS

- A. NO VARIANCE MAY BE GRANTED WHICH WOULD HAVE THE EFFECT OF ALLOWING IN ANY DISTRICT A USE NOT PERMITTED IN THAT DISTRICT _____
- B. NO VARIANCE MAY BE GRANTED WHICH WOULD HAVE THE EFFECT OF ALLOWING A USE OF LAND OR PROPERTY WHICH WOULD VIOLATE STATE LAWS OR ADMINSTRATIVE RULES: _____
- C. SUBJECT TO THE ABOVE LIMITATIONS, VARIANCES MAY BE GRANTED WHERE STRICT ENFORCEMENT OF THE TERMS OF THE ORDINANCE RESULTS IN AN UNNECESSARY HARDSHIP & WHERE A VARIANCE IN THE STANDARDS WILL ALLOW THE SPIRIT OF THE ORDINANCE TO BE OBSERVED, SUBSTANTIAL JUSTICE TO BE ACCOMPLISHED, & THE PUBLIC INTEREST NOT VIOLATED.

BASED ON THE FINDINGS OF FACT, THE BOARD CONCLUDES THAT:

1. UNNECESSARY HARDSHIP **IS/IS NOT** PRESENT IN THAT A LITERAL ENFORCEMENT OF THE TERMS OF THE ZONING ORDINANCE **WOULD/WOULD NOT** UNREASONABLY PREVENT THE OWNER FROM USING THE PROPERTY FOR A PERMITTED PURPOSE OR WOULD RENDER CONFORMITY WITH SUCH RESTRICTIONS UNNECESSARILY BURDENSOME BECAUSE _____

2. THE HARDSHIP **IS/IS NOT** DUE TO UNIQUE PHYSICAL LIMITATIONS OF THE PROPERTY RATHER THAN THE CIRCUMSTANCES OF THE APPLICANT BECAUSE _____

3. THE VARIANCE **WILL/WILL NOT** BE CONTRARY TO THE PUBLIC INTEREST AS EXPRESSED BY THE PURPOSE AND INTENT OF THE ZONING ORDINANCE BECAUSE _____

A VARIANCE MAY BE GRANTED IF ALL THESE CONDITIONS ARE MET

DECISION: THE REQUESTED VARIANCE IS TABLED.

MOTION: Weis **SECOND:** Carroll **VOTE:** 3-0

CONDITIONS OF TABLING: Petitioner to provide a professional survey portraying accurate delineation of lot lines and zoning required setbacks.

SIGNED: _____ DATE: 07-12-2012
CHAIRPERSON

BOARD DECISIONS MAY BE APPEALED TO CIRCUIT COURT. AUDIO RECORD OF THESE PROCEEDINGS IS AVAILABLE UPON REQUEST.

**DECISION OF THE ZONING BOARD OF ADJUSTMENT
JEFFERSON COUNTY, WISCONSIN**

FINDINGS OF FACT

PETITION NO.: 2012 V1389

HEARING DATE: ~~06-14-2012~~ 7-12-2012 CORRECTED 8-09-12

APPLICANT: Roger G. & Laura M. Zimmerman

PROPERTY OWNER: SAME

PARCEL (PIN #): 020-0814-0513-000

TOWNSHIP: Milford

INTENT OF PETITIONER: To modify the maximum number of lots allowed in an A-3 Zone to create a new lot at N9579 Englehart Road.

THE APPLICANT REQUESTS A VARIANCE FROM SECTION 11.04(f)8
OF THE JEFFERSON COUNTY ZONING ORDINANCE.

THE FEATURES OF THE PROPOSED CONSTRUCTION AND PROPERTY WHICH
RELATE TO THE GRANT OR DENIAL OF THE VARIANCE APPLICATION ARE:

On April 21, 1999, a Zoning/Land Use Permit was issued to the petitioner for a new home at N9579 Englehart Rd. On June 20, 2000, the Jefferson County Board of Supervisors approved a petition for a new lot along the north lot line of the parcel. As part of the rezoning, it was made aware that this would be the remaining A-3 lot created on the parcel. In addition, the owners signed a notice of limitations acknowledging that they were aware that the remaining A-1 zoned lands may not be rezoned to A-3 for the purpose of residential use. See attached documentation.

FACTS OR OBSERVATIONS BASED ON SITE INSPECTIONS: Site inspections conducted. Observed property layout & location.

FACTS PRESENTED AT PUBLIC HEARING: See tape, minutes & file.

DECISION STANDARDS

- A. NO VARIANCE MAY BE GRANTED WHICH WOULD HAVE THE EFFECT OF ALLOWING IN ANY DISTRICT A USE NOT PERMITTED IN THAT DISTRICT _____

- B. NO VARIANCE MAY BE GRANTED WHICH WOULD HAVE THE EFFECT OF ALLOWING A USE OF LAND OR PROPERTY WHICH WOULD VIOLATE STATE LAWS OR ADMINISTRATIVE RULES: _____
- C. SUBJECT TO THE ABOVE LIMITATIONS, VARIANCES MAY BE GRANTED WHERE STRICT ENFORCEMENT OF THE TERMS OF THE ORDINANCE RESULTS IN AN UNNECESSARY HARDSHIP & WHERE A VARIANCE IN THE STANDARDS WILL ALLOW THE SPIRIT OF THE ORDINANCE TO BE OBSERVED, SUBSTANTIAL JUSTICE TO BE ACCOMPLISHED, & THE PUBLIC INTEREST NOT VIOLATED.

BASED ON THE FINDINGS OF FACT, THE BOARD CONCLUDES THAT:

4. UNNECESSARY HARDSHIP **IS NOT** PRESENT IN THAT A LITERAL ENFORCEMENT OF THE TERMS OF THE ZONING ORDINANCE **WOULD NOT** UNREASONABLY PREVENT THE OWNER FROM USING THE PROPERTY FOR A PERMITTED PURPOSE OR WOULD RENDER CONFORMITY WITH SUCH RESTRICTIONS UNNECESSARILY BURDENSOME BECAUSE it's self-created

5. THE HARDSHIP **IS NOT** DUE TO UNIQUE PHYSICAL LIMITATIONS OF THE PROPERTY RATHER THAN THE CIRCUMSTANCES OF THE APPLICANT BECAUSE it is self-created

6. THE VARIANCE **WILL** BE CONTRARY TO THE PUBLIC INTEREST AS EXPRESSED BY THE PURPOSE AND INTENT OF THE ZONING ORDINANCE BECAUSE it would establish a precedent. The current Farm Plan reinforces the Ordinance.

A VARIANCE MAY BE GRANTED IF ALL THESE CONDITIONS ARE MET

DECISION: THE REQUESTED VARIANCE IS **DENIED**.

MOTION: Hoeft

SECOND: Weis

VOTE: 3-0

CONDITIONS OF APPROVAL/DENIAL:

SIGNED: _____ **DATE:** 07-12-2012
CHAIRPERSON

BOARD DECISIONS MAY BE APPEALED TO CIRCUIT COURT. AUDIO RECORD OF THESE PROCEEDINGS IS AVAILABLE UPON REQUEST.

DECISION OF THE ZONING BOARD OF ADJUSTMENT

JEFFERSON COUNTY, WISCONSIN

FINDINGS OF FACT

PETITION NO.: 2012 V1390
HEARING DATE: 07-12-2012

APPLICANT: Nathan Uttech

PROPERTY OWNER: Nathan Uttech & Desiree Johnson

PARCEL (PIN #): 030-0813-2723-001

TOWNSHIP: Waterloo

INTENT OF PETITIONER: After-the-fact road setback for a 24' x 31' (744 sq. ft.) structure.

THE APPLICANT REQUESTS A VARIANCE FROM SECTION 11.07(d) OF THE JEFFERSON COUNTY ZONING ORDINANCE.

THE FEATURES OF THE PROPOSED CONSTRUCTION AND PROPERTY WHICH RELATE TO THE GRANT OR DENIAL OF THE VARIANCE APPLICATION ARE:

The petitioner built a 24' x 31' (744 sq. ft.) structure 40 feet from the right-of-way and 72 feet from the center line of Stoney Brook Rd., whereas the required setback is 50 feet from the right of way and 85 feet from the centerline. The property is 10 acres.

FACTS OR OBSERVATIONS BASED ON SITE INSPECTIONS: Site inspections conducted. Observed property layout & location.

FACTS PRESENTED AT PUBLIC HEARING: See tape, minutes & file.

DECISION STANDARDS

- A. NO VARIANCE MAY BE GRANTED WHICH WOULD HAVE THE EFFECT OF ALLOWING IN ANY DISTRICT A USE NOT PERMITTED IN THAT DISTRICT _____

- B. NO VARIANCE MAY BE GRANTED WHICH WOULD HAVE THE EFFECT OF ALLOWING A USE OF LAND OR PROPERTY WHICH WOULD VIOLATE STATE LAWS OR ADMINISTRATIVE RULES: _____
- C. SUBJECT TO THE ABOVE LIMITATIONS, VARIANCES MAY BE GRANTED WHERE STRICT ENFORCEMENT OF THE TERMS OF THE ORDINANCE RESULTS IN AN UNNECESSARY HARDSHIP & WHERE A VARIANCE IN THE STANDARDS WILL ALLOW THE SPIRIT OF THE ORDINANCE TO BE OBSERVED, SUBSTANTIAL JUSTICE TO BE ACCOMPLISHED, & THE PUBLIC INTEREST NOT VIOLATED.

BASED ON THE FINDINGS OF FACT, THE BOARD CONCLUDES THAT:

7. UNNECESSARY HARDSHIP **IS** PRESENT IN THAT A LITERAL ENFORCEMENT OF THE TERMS OF THE ZONING ORDINANCE **WOULD** UNREASONABLY PREVENT THE OWNER FROM USING THE PROPERTY FOR A PERMITTED PURPOSE OR WOULD RENDER CONFORMITY WITH SUCH RESTRICTIONS UNNECESSARILY BURDENSOME BECAUSE a wood burner is a permitted structure and storage of wood is a reasonable use.
8. THE HARDSHIP **IS** DUE TO UNIQUE PHYSICAL LIMITATIONS OF THE PROPERTY RATHER THAN THE CIRCUMSTANCES OF THE APPLICANT BECAUSE the location of the septic system prevents the structure from being further located back from the road.
9. THE VARIANCE **WILL NOT** BE CONTRARY TO THE PUBLIC INTEREST AS EXPRESSED BY THE PURPOSE AND INTENT OF THE ZONING ORDINANCE BECAUSE it's further back from the road than the house.

A VARIANCE MAY BE GRANTED IF ALL THESE CONDITIONS ARE MET

DECISION: THE REQUESTED VARIANCE IS **GRANTED.**

MOTION: Carroll

SECOND: Hoeft

VOTE: 3-0

CONDITIONS OF APPROVAL: Required that the structure to remain solely for the use of the wood burning furnace & wood storage, and shall be removed when such use ceases.

SIGNED: _____ **DATE:** 07-12-2012
CHAIRPERSON

BOARD DECISIONS MAY BE APPEALED TO CIRCUIT COURT. AUDIO RECORD OF THESE PROCEEDINGS IS AVAILABLE UPON REQUEST.